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March 29, 2022

Mr. J. Matthew DeLesDernier
Assistant Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington D.C. 20549

Re: Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Adopt Listing Standards for Subscription Warrants Issued by a Company Organized Solely for the Purpose of Identifying an Acquisition Target (SR-NYSE-2021-45)

Dear Mr. DeLesDernier,

We are writing in regard to the New York Stock Exchange's ("NYSE") proposed rule change (as amended, the "Proposed Rule"), which would allow an acquisition company to list subscription warrants that would become exercisable for common stock in connection with a specific business combination[1]. In this letter, we refer to a company that issues subscription warrants as a special purpose acquisition rights company, or "SPARC," and to the subscription warrants as "SPARs".

We believe that SPARCs represent a progressive evolution of the blank check acquisition company, increasing the quality and likelihood of value-creating transactions to the benefit of public investors, while providing robust investor protections. Blank check acquisition companies have the potential to be a positive and useful component of capital markets, providing market participants with investment opportunities they otherwise would not have access to, and providing companies with an additional route to raising capital. Blank check acquisition companies also have the potential to be harmful to investors if sufficient investor protections are not incorporated into their design. We understand that achieving the promise of blank check acquisition companies hinges crucially on avoiding these harms, and believe that SPARCs are fundamentally structured to do just this.

SPARCs, in conjunction with the safeguards set forth in the Proposed Rule, can lower the barriers to entry for public investors, in terms of both capital and risk, while increasing the barriers to entry for would-be sponsors. In this letter, we describe the key features of SPARC and the Proposed Rule that will facilitate value-creation and capital formation, and do so in a manner that is fair and equitable to public investors.

The Opt-In Model: Facilitating Public Access and Eliminating Capital Risk

A SPARC will distribute rights, or SPARs, to public investors at no cost. The SPARs will not be exercisable until (i) a definitive business combination agreement has been entered into, (ii) a registration

[1] Cadwalader, Wickersham & Taft LLP is counsel to Pershing Square SPARC Holdings, Ltd., a blank check company that seeks to list its subscription warrants on the NYSE, and which publicly filed a registration statement on Form S-1 relating to its subscription warrants on November 24, 2021.

statement has been declared effective by the SEC, and (iii) substantially all closing conditions have been satisfied. SPAR holders will then have an opportunity to decide whether they want to participate in the transaction and commit to paying the exercise price. Investors will provide the SPARC with funds only a short time before the closing of the business combination.

Access and Opportunity Cost

Investors view the opportunity presented by acquisition companies as valuable. However, as expressed in over 80 comments submitted to the SEC regarding the Proposed Rule, the cost of purchasing shares in an IPO limits both the willingness and the ability of investors to take this opportunity. A SPARC would not require potential investors to contribute any of their capital until shortly before the consummation of the business combination.

The process for an acquisition company to consummate a business combination is potentially lengthy. The company must search for business combination partners, conduct diligence, negotiate and enter into the transaction agreement and make comprehensive public disclosure regarding the transaction, if they are able to consummate a transaction at all. Initial SPAR holders will receive their SPARs at no cost, and keep their money during this period. Those who acquire SPARs in the secondary market will have paid a purchase price, but not to the SPARC, and only in an amount that is expected to be relatively low.[2] This lower purchase price is largely due to the fact that, unlike SPAC shares, SPARs have no "redemption right" exercisable for a pro rata share of funds in a trust account, as no funds were raised up-front. That is, the purchase price will reflect the per-share value of an anticipated potential transaction *above* the exercise price, rather than the full per-share value of the anticipated potential transaction. SPAR holders will be free to invest their money as they choose during this time, and will not bear an opportunity cost of capital in order to secure the opportunity to invest in a potential transaction.

Acquisition companies can provide public investors with access to a set of investments they would not otherwise have. SPARC will enable a greater number of public investors to obtain this access, as they will bear little or no opportunity cost in doing so.

Minimal Capital Risk

Until SPAR holders submit their exercise payment, they will not bear any capital risk. Exchange rules establish, as an essential safeguard, that a significant majority of funds held by an acquisition company be kept in an escrow account, invested in low-risk, short-term government securities. SPARC, on the other hand, protects investor capital by not having any investor capital during nearly the entire lifespan of the company. SPARC will not hold any investor funds except during a brief period prior to consummation of the business combination. During this brief period time, it will hold those funds as cash, in a trust account controlled by an independent custodian, and SPAR holders will be entitled to promptly receive a return of their funds if the transaction is not consummated.

[2] We also note that there will likely not be a listed options market for SPARs. Accordingly, unlike many listed equity securities, the market for SPARs will not include this set of highly speculative and volatile derivative securities.

Deliberate Investment Choice

In order to participate in a SPARC's business combination, investors must make the affirmative choice to do so. They will receive comprehensive disclosure regarding the transaction, and will then choose whether or not to exercise their SPARs. They must submit a notice of their intent to exercise and submit payment. This is similar to the protections set forth in Rule 419, pursuant to which an investor must elect to remain an investor, and will have their funds returned to them if they do not so elect. An investor cannot, through oversight or otherwise, inadvertently invest money in a SPARC and its proposed business combination.

Variable Exercise Price: Putting the Public on an Even Footing with Private Capital

The Proposed Rule requires that SPARs have a minimum exercise price of $10, and permits the SPARC to determine the final exercise price at the time it enters into its business combination agreement. If a SPARC identifies a business combination that will require more capital than it would raise at an exercise price of $10 per share, it can set the exercise price higher. This enables a SPARC to search for the best possible business combination and then determine how much capital it must raise, rather than restricting its search based on the capital it already has. More importantly, a SPARC can raise this additional capital from its existing base of public warrant holders simply by adjusting the strike price of the warrants upwards at the time of the announcement of the initial business combination.

Traditional acquisition companies do not raise additional public capital after their IPO, and are reliant on private financing to provide any additional funds needed upon the closing of the transaction (typically in the form of a "PIPE" investment by hedge funds and other sophisticated institutional investors). These private investments pose certain risks to public investors. Private investors often receive more detailed information than is provided to the public, and typically invest on more favorable – often substantially more favorable – terms than public investors, at a lower per-share price or in a senior PIPE security (such as a preferred stock or convertible debt security). The complexity of these PIPE instruments makes it challenging for investors to understand potential dilution and other negative effects on common stockholders. Furthermore, as privately placed instruments, PIPEs deprive public investors of the opportunity to participate fully in the value of the transaction, while putting them at a greater risk of being diluted or otherwise made worse off.

A SPARC may also seek private capital, and there are reasons why it may choose to do so. An investment by a well-regarded private investor can increase confidence that the SPARC has obtained a good deal. Committed private capital can assure a business combination partner that there will be sufficient funds if fewer than all SPAR holders electing to exercise their SPARs. If the perceived value of the transaction increases following the time that the exercise price is set, the SPARC and the business combination partner may seek to raise capital at a higher price.

SPARCs will not, however, be required to look to private markets. SPARCs will have the option to seek additional funds from the public, and to the extent a SPARC does so, the risk of dilution or loss of value that public investors face is decreased. As with other key features of SPARCs, public access to investment is increased, and potential risk is decreased.

The Ten-Year Term: Increasing the Quality and Likelihood of a Transaction

SPARC will have up to 10 years to consummate a business combination, substantially reducing, if not eliminating, "deadline" pressure. As an acquisition company approaches the deadline at which it must return investor funds, potential business combination partners can take advantage of the eagerness of the company to consummate a transaction. As a result, it may accept a deal on less favorable terms (i.e., paying a higher valuation), or be unable to find a transaction at all. The chances of an unfavorable deal are increased by the sponsor's incentives, as it stands to lose its entire investment if no deal is consummated.

The shorter term of typical acquisition companies is a direct product of the fact that they hold investor funds. Even where listing exchange rules permit a longer term (up to 36 months), acquisition companies may need to set a significantly shorter term in order to attract investor demand for its securities. Because SPARCs do not hold investor funds, they would not face the same kind of market pressure.

The full ten-year term of a SPARC would permit the company to conduct a longer search and more extensive diligence, and would allow the company to weather unfavorable market conditions. But the real value of having a distant deadline, somewhat counterintuitively, is that it increases the likelihood of a deal happening sooner. SPARCs will have a better negotiating position in the absence of a deadline, and for each company a SPARC considers, it is more likely to be able to obtain terms favorable enough to make the transaction worthwhile. In addition, it reduces the conflict of interest between a sponsor's interests and those of public stockholders that arises as the deadline approaches. Without deadline pressure, SPARCs are able to enter into a better-quality transaction, on better terms, and in less time.

Numerical Listing Criteria: A High Bar for Sponsors

Launching and running a SPARC requires a serious commitment from, and investment by, its sponsors. SPARC sponsors must be able to fund up to ten years of operating costs, and, in order to obtain and maintain the listing of their SPARs, provide market participants with a relatively high degree of confidence in their ability to consummate an attractive deal.

The value of any acquisition company, prior to announcing a transaction, derives primarily from expectations regarding the sponsors ability to find an attractive business combination. Following the announcement of a business combination agreement, the value of the company will depend primarily on market perception of the value of the proposed business combination target and the terms on which the deal was struck.

The Proposed Rule sets forth requirements regarding, among other things, the number of SPARs, the aggregate exercise price of the SPARs, the minimum initial trading price of the SPARs, and a minimum continuing trading price of SPARs. These requirements for a SPARC to obtain and maintain its listing on the New York Stock Exchange are demanding, but achievable.

At initial listing, SPARs will be required to have a price of $1.00. On an ongoing basis, SPARs must maintain a minimum trading price of $0.25. As stated above, the trading price of SPARs will primarily reflect the expected value of the business combination *in excess of* the final exercise price. Sponsors without an established track record of value-creating investments will have difficulty generating the positive expectations necessary to achieve and maintain a listing.

SPARCs that lose market confidence will be delisted. Delisting is an important investor protection. Companies that are unlikely to have any value or that fail to provide adequate disclosure, once

delisted, become much more difficult to invest in. Delisting also has a downside. For existing investors, delisting may accelerate the loss of value and make it extremely difficult to sell the securities. Because SPAR holders will have received their SPARs at no cost, however, delisting provides significant protection without the same risk of loss and illiquidity. SPARC sponsors will be highly incentivized to offer favorable terms to their warrant holders in order to increase the likelihood that the minimum listing requirements are achieved and maintained.

We expect that the expense of operating a SPARC and the rigorous listing criteria contained in the Proposed Rule will create a barrier to entry for sponsors, elevating the quality of the sponsors of SPARCs to the benefit of public investors.

Conclusion

We believe that the issuance of subscription warrants under the Proposed Rule, will provide market participants with investment opportunities in the private company market to which they might not otherwise have access, and will do so in an investor-friendly and investor-protective manner. We note, in particular, that the initial and ongoing listing standards are likely to limit the issuers of subscription warrants to SPARCs sponsored by well-known, sophisticated investment firms with established investment track records—precisely the type of investors whose expertise can benefit market participants.

Sincerely,

/s/ Stephen Fraidin, Esq.

cc: Pershing Square SPARC Holdings, Ltd.
Gregory Patti
Niral Shah